

**Washington B.C. Studio Corp. v 451 Washington St
Leaseco LLC**

2025 NY Slip Op 34917(U)

December 10, 2025

Supreme Court, New York County

Docket Number: Index No. 659374/2025

Judge: Melissa A. Crane

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. MELISSA A. CRANE

PART

60M

Justice

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WASHINGTON B.C. STUDIO CORP.,

INDEX NO. 659374/2025MOTION DATE 10/29/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

451 WASHINGTON ST LEASECO LLC DBA MAXWELLS
SOCIAL, MAXWELL SOCIAL CLUB TRIBECA,
INC., CAPSOUTO ASSOCIATES REALTY, LLC, ESTATE OF
JACQUES CAPSOUTO, THE CAPSOUTO FAMILY TRUST
2020, JOHN DOE AND JANE DOE #1 THROUGH #10

Corrected 12/18/2025 MJC
ORDER - INTERIM (MOTION
RELATED)

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 3, 4, 5, 6, 7, 8, 9,
10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37,
38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56

were read on this motion to/for

INJUNCTION/RESTRAINING ORDER

Melissa A. Crane, JSC

This case involves a dispute between plaintiff, a co-op and defendant who has sublet
from a member of the co-op for:

“the purposes of a private social club, permitted to prepare and serve food
and beverages, including alcohol, performance of live or recorded music,
photography, and filming and recording of live events, subject to Sub-Tenant’s
ability to obtain all necessary licenses and/or permits and subject to the Rules and
Regulations in the attached Exhibit B. Sub-Tenant shall be permitted to have
access to the Premises 24 hours per day, each day of the year.”

The court held a hearing on plaintiff’s motion for a preliminary injunction on 12/2/2025.

Despite desiring a litany of relief, it appears that plaintiff is mainly concerned with: (1) the
kitchen exhaust; (2) excessive noise and (3) the alleged illegal use of the cellar.

Defendant agreed on the record of 12/2/2025 not to use the equipment in the kitchen that
is subject to the FDNY violations. This is sufficient. Plaintiff’s requested relief to prohibit

defendant's use of the kitchen entirely is not necessary given the nature of the violation. The parties assured the court that their experts are cooperating to cure the violation.

There is evidence in the record that defendant is making excessive noise, sometimes until very late at night. Some of the alleged noise is from guests who leave the club and loiter outside. Other noise emanates from inside the premises in the form of loud music. Defendant does not dispute that it is playing music past 11:00 pm or that situations have occurred where patrons congregate outside the social club on the sidewalk.

Thus, the court issues a preliminary injunction restricting defendant from playing music so loud that it can be heard in residents' apartments after 11:00 PM until 8:00 AM. The court also orders defendant to inform the host of an event to tell their guests not to congregate outside the venue.

There are several provisions in the Sub-Lease defendant signed (EDOC 7) that are relevant. First, Exhibit B, entitled "RULES AND REGULATIONS," to the Sublease section (5) states, "No Lessee shall make or permit any unreasonably disturbing noises in the building." It continues:

"No Lessee shall play upon or suffer to be played upon any musical instruments or permit to be operated a phonograph or a radio or television loudspeaker in such lessee's apartment **between the hours of eleven o'clock PM, and the following eight o'clock a.m.** if the same is excessive and shall unreasonably disturb or annoy other occupants of the building."

Defendant made the argument that this section does not apply to a commercial establishment, like defendant's social club. However, defendant could point to nothing in the Sub-Lease that exempted defendant from this rule. Meanwhile page 37 of the Sub-Lease, in a section dubbed "A," makes the Sub-Lease "subject to the Proprietary Lease." Moreover, **Exhibit A** attached to the Sub-lease, entitled "Prohibited Uses," makes it prohibitive "For any

loudspeakers, phonographs or other devices of similar nature [to operate] in such a manner so [as to] produce unreasonably excessive noise heard outside of the Premises.” Thus, defendant is unlikely to prevail on the merits that it is not subject to the time and noise restrictions in the Sub-Lease. Moreover, there is evidence in the record that some of the co-op members residing in the building have suffered loss of sleep due to the noise emanating from defendant’s club. This satisfies the element of irreparable harm.

The balance of the equities also favors plaintiff. It is not inequitable to expect defendant to abide by the sub-lease it signed.

Defendant argues that restricting the hours in which it can play music amounts to a mandatory injunction. Characterizing a preliminary injunction order as “mandatory,” does not make it so. It is undisputed that playing the music past hours is occurring. The only dispute is how loud it is. The court is not restricting defendant from playing music. It is only restricting the playing of music so loud that it disturbs residents. It is not a mandatory injunction to require defendant to adhere to lease conditions to which it already agreed.

Defense counsel also complained that he did not have notice that the case was on for a hearing on 12/2/2025, or he would have brought witnesses as the plaintiff did, but the appearance detail on E-courts clearly listed this case as being on for a “PI hearing.”

However, whether the defendant is actually above capacity for the cellar remains a contested issue of fact. Thus, it would be a mandatory injunction to prohibit defendant from use of the cellar at this time. Accordingly, the court denies that part of plaintiff’s application that relates to the cellar. Finally, the court sets a \$100,000 undertaking that plaintiff must post.

Accordingly, it is

NYSCEF DOC. NO. 57

ORDERED THAT defendant is enjoined on consent from using the equipment in the kitchen that is subject to the FDNY violations; and it is further

ORDERED THAT defendant is enjoined from playing music loud enough to be heard outside the Premises from 11:00 am until the following day at 8:00 am; and it is further

ORDERED THAT the balance of the motion is denied; and it is further

ORDERED THAT this injunction is conditioned up plaintiff posting a \$100,000 bond and e-filing proof of same by December 15, 2025.

MAK

12/10/2025

DATE

CHECK ONE:

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CASE DISPOSED

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GRANTED

☐

DENIED

APPLICATION:

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SETTLE ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

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NON-FINAL DISPOSITION

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GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

Melissa A. Crane
MELISSA A. CRANE, J.S.C.